

## REMARKS

The Office Action dated July 10, 2006 has been fully considered by the Applicant.

By way of the present amendment, independent Claims 1 and 7 have each been amended.

The rejection of Claims 1, 2, 3, 5 and 6, as now amended, under 35 U.S.C. §102 as anticipated by Wasilewski (U.S. Patent No. 5,600,378) is respectfully traversed. As now amended, Claim 1 clearly conveys that the broadcast data receiver of the present invention is provided with a plurality of independent tuners each of which receives a different transport stream of digital data.

A key difference between the present invention and Wasilewski (US 5600378) is that the present invention addresses the specific problem of a receiver provided with multiple tuners, each tuner receiving a different *transport* stream of digital data simultaneously, which are then multiplexed together in such a way that the originating *transport* stream can be identified as well as the packet identification codes. This therefore allows the problem which is experienced of the packet identification codes being used to identify different packets of data in different transport streams of data which are received to be avoided. This problem occurs with receivers with two or more tuners, as each tuner receives different transport streams of data simultaneously and if the current invention was not adopted there is a significant risk that when the receiver attempts to retrieve a particular packet of data in response to a user selection, the more than one received packet of data would have the same packet identification code which would lead to the apparatus malfunctioning. This cannot occur now as the transport streams are identified, with typically one transport stream received by the first tuner and the second transport stream received by the second tuner so that the receiver can immediately identify which tuner to refer to when retrieving the particular packet of data, having referred to the transport stream identification code as well as the packet identification code.

In Wasilewski, the device is provided with only one tuner and therefore while it receives multiple streams of data it can only receive one *transport* stream. As shown in Figure 1 for example, only one *transport* stream is received, albeit potentially from different sources. As indicated at col 1, lines 22-29, the single transport stream can contain a number of elementary streams multiplexed together, containing data for multiple programs, but it is still a single *transport* stream. Thus adopting the teaching of Wasilewski would not work with the multi tuner apparatus as if the multiplicity of transport streams of data were

combined, the receiver, although able to find the packets which contained a TSID, would not be able to determine which of the many other packets in the combined stream belonged to which TSID as they would not carry a TSID indicator. Wasilewski does not even address the problem solved in the present invention.

As such, the claims have been amended to highlight the distinction between the streams of Wasilewski and the transport streams of the present invention. Support for the amendment of more than one tuner with multiple transport stream can be found on page 6 of the specification.

In summary, it is believed that Claim 1 patentably defines the invention.

Claims 2, 3, 5 and 6 are each dependent on Claim 1, include all of the limitations thereof, and are believed allowable for all the same reasons.

The rejection of Claims 4, 7, 8 and 9, as now amended, is respectfully traversed.

While Robinett et al. discloses a remultiplexing method, neither Robinett nor Wasilewski discloses the invention as claimed in Claims 1 and 4. Specifically, the receiver with a plurality of tuners with each receiving a different transport stream of digital data. Accordingly, Robinett et al. is not even addressed to the same issue or issues faced in the present invention.

Independent Claim 7 is directed to a process for data reception by a broadcast data receiver simultaneously receiving a number of different transport streams for a plurality of tuners. Neither Wasilewski nor Robinett discloses the process set forth in Claim 7.

Claims 8 and 9 are each dependent on Claim 7, contain all of the limitations thereof, and are believed allowable for all the same reasons.

It is improper to combine references to achieve the invention under consideration unless there is some incentive or suggestion in the references to do so.

The Court of Appeals for the Federal Circuit has repeatedly held that under Section 103, teachings from various references can be combined only if there is some suggestion or incentive to do so. ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F2d 1572, 221 USPQ 929 (CAFC 1984).

Stated another way:

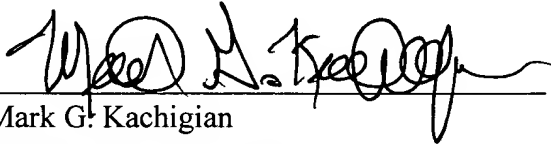
It is impermissible, however, simply to engage in a hindsight reconstruction of the claimed invention, using the applicant's structure as a template and selecting elements from references to fill the gaps...The references

themselves must provide some teaching whereby the applicant's combination would have been obvious. In re Gorman, 18 USPQ2d 1885 (CAFC 1991).

The Examiner is required to follow the law as set forth by the Federal Circuit. In summary, the combination of patents to achieve the claims of the present invention is untenable.

It is believed that the foregoing is fully response to the outstanding Office Action. If any further issues remain, a telephone conference with the Examiner is respectfully requested. If any fees or charges are associated herewith, please credit deposit Account No. 08-1500.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark G. Kachigian', written over a horizontal line.

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Date: 5 January 2007